

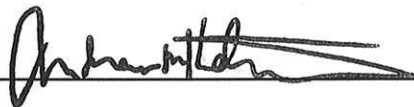
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Chapter No. 431
15/HR40/R986SG
EW 13/11

HOUSE BILL NO. 825

Originated in House



Clerk

HOUSE BILL NO. 825

AN ACT TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE PERSONAL SERVICE CONTRACT REVIEW BOARD; TO PROHIBIT ANY PERSON, EMPLOYEE OR OWNER OF A COMPANY THAT RECEIVES ANY GRANTS, PROCUREMENTS OR CONTRACTS SUBJECT TO APPROVAL UNDER THIS SECTION FROM BEING APPOINTED TO THE PERSONAL SERVICE CONTRACT REVIEW BOARD; TO REMOVE CERTAIN EXEMPTIONS OF PERSONAL SERVICES CONTRACTS FROM BOARD REVIEW; TO REDUCE THE THRESHOLD AMOUNT OF EXPENDITURE IN CONTRACTS THAT REQUIRE APPROVAL BY THE BOARD; TO REQUIRE CERTAIN REPORTS TO BE SUBMITTED TO THE CHAIRMEN OF THE ACCOUNTABILITY, EFFICIENCY AND TRANSPARENCY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES; TO AUTHORIZE AND DIRECT THE PERSONAL SERVICE CONTRACT REVIEW BOARD TO DEVELOP AND ISSUE REGULATIONS TO DEFINE STANDARDS FOR CONTRACT EMPLOYEES THAT ARE IN CONFORMITY WITH FEDERAL INTERNAL REVENUE SERVICE REGULATIONS; TO REQUIRE CERTAIN RECORDKEEPING FOR ALL SOLE SOURCE PROCUREMENTS FOR PERSONAL AND PROFESSIONAL SERVICES; TO CREATE A NEW SECTION REQUIRING THE PEER COMMITTEE TO EVALUATE ON A BIENNIAL BASIS THE PROCUREMENT PROCESS UTILIZED BY ALL STATE AGENCIES; TO AMEND SECTION 25-1-100, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONTRACTS FOR PERSONAL AND PROFESSIONAL SERVICES AWARDED OR EXECUTED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES AND THE DEPARTMENT OF TRANSPORTATION SHALL NOT BE EXEMPT FROM THE MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTION 26-61-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROVISIONS OF ALL PROCUREMENT CONTRACTS AWARDED BY STATE AGENCIES SHALL NOT BE DEEMED TO BE A TRADE SECRET OR CONFIDENTIAL INFORMATION UNDER THE MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTIONS 27-104-155 AND 27-104-161, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT PERSONAL AND PROFESSIONAL SERVICE CONTRACTS SHALL BE INCLUDED ON THE MISSISSIPPI TRANSPARENCY WEBSITE; TO AMEND SECTIONS 5-8-3 AND

5-8-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY INDIVIDUAL WHO PERFORMS BOTH CONSULTING AND LOBBYING SERVICES FOR A PUBLIC ENTITY SHALL BE CONSIDERED A LOBBYIST AND SHALL NOT BE EXEMPT FROM ANY LOBBYING LAW; TO BRING FORWARD SECTIONS 5-8-1, 5-8-5, 5-8-9 THROUGH 5-8-23, AND 25-53-151, MISSISSIPPI CODE OF 1972, FOR POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-9-120, Mississippi Code of 1972, is amended as follows:

25-9-120. (1) Contract personnel, whether classified as contract workers or independent contractors shall not be deemed state service or nonstate service employees of the State of Mississippi, and shall not be eligible to participate in the Public Employees' Retirement System, or the State and School Employees' Health Insurance Plan, nor be allowed credit for personal and sick leave and other leave benefits as employees of the State of Mississippi, notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth herein. Contract workers, i.e., contract personnel who do not meet the criteria of independent contractors, shall be subject to the provisions of Section 25-11-127.

(2) (a) There is hereby created the Personal Service Contract Review Board, which shall be composed of the * * * following members:

(i) The State Personnel Director;

(ii) Two (2) individuals appointed by the Governor

with the advice and consent of the Senate;

(iii) Two (2) individuals appointed by the Lieutenant Governor with the advice and consent of the Senate; and

(iv) The Executive Director of the Department of Finance and Administration, serving as an ex officio member;

(b) The initial terms of each appointee shall be as follows:

(i) One (1) member appointed by the Governor to serve for a term ending June 30, 2017;

(ii) One (1) member appointed by the Governor to serve for a term ending June 30, 2020;

(iii) One (1) member appointed by the Lieutenant Governor to serve for a term ending June 30, 2018; and

(iv) One (1) member appointed by the Lieutenant Governor to serve for a term ending June 30, 2019.

After the expiration of the initial terms, all appointed members' terms shall be for a period of four (4) years from the expiration date of the previous term, and until such time as the member's successor is duly appointed and qualified;

(c) When appointing members to the Personal Service Contract Review Board, the Governor and Lieutenant Governor shall take into consideration persons who possess at least five (5) years of management experience in general business, health care, or finance for an organization, corporation, or other public or private entity. Any person, or any employee or owner of a company, who receives any grants, procurements or contracts that

are subject to approval under this section shall not be appointed to the Personal Service Contract Review Board. Any person, or any employee or owner of a company, who is a principal of the source providing the personal or professional service shall not be appointed to the Personal Service Contract Review Board if the principal owns or controls a greater than five percent (5%) interest or has an ownership value of One Million Dollars (\$1,000,000.00) in the source's business, whichever is smaller;

(d) Members of the Personal Service Contract Review Board shall be entitled to per diem as authorized by Section 25-3-69 and travel reimbursement as authorized by Section 25-3-41;

(e) The State Personnel Director shall be chairman and shall preside over the meetings of the board. The board shall annually elect a vice chairman, who shall serve in the absence of the chairman. No business shall be transacted, including adoption of rules of procedure, without the presence of a quorum of the board. Three (3) members shall be a quorum. No action shall be valid unless approved by the chairman and two (2) other of those members present and voting, entered upon the minutes of the board and signed by the chairman. Necessary clerical and administrative support for the board shall be provided by the State Personnel Board. Minutes shall be kept of the proceedings of each meeting, copies of which shall be filed on a monthly basis with the * * * Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives.

(3) The Personal Service Contract Review Board shall have the following powers and responsibilities:

(a) Promulgate rules and regulations governing the solicitation and selection of contractual services personnel including personal and professional services contracts for any form of consulting, policy analysis, public relations, marketing, public affairs, legislative advocacy services or any other contract that the board deems appropriate for oversight, with the exception of any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, and any contract for attorney, accountant, auditor, * * * architect, engineer, * * * and utility rate expert services. Any such rules and regulations shall provide for maintaining continuous internal audit covering the activities of such agency affecting its revenue and expenditures as required under Section 7-7-3(6)(d), Mississippi Code of 1972. Any rules and regulation changes related to personal and professional services contracts that may be proposed by the Personal Service Contract Review Board shall be submitted to the Chairmen of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives at least fifteen (15) days prior to the board voting on the proposed changes, and such rules and regulation changes, if adopted, shall

be promulgated in accordance with the Mississippi Administrative Procedures Act;

(b) Approve all personal and professional services contracts involving the expenditures of funds in excess of * * * Seventy-five Thousand Dollars (\$75,000.00);

(c) Develop mandatory standards with respect to contractual services personnel which require invitations for public bid, requests for proposals, record keeping and financial responsibility of contractors. The Personal Service Contract Review Board * * * shall, unless exempted under this paragraph (c) or under paragraph (d) or (j) of this subsection (3), require the agency involved to advertise such contract for public bid, and may reserve the right to reject any or all bids;

(i) Any agency that seeks to procure personal or professional service contracts that are required to be approved by the Personal Service Contract Review Board may petition for relief from any requirement that the agency use competitive bidding as a procurement method. The agency shall be required to show to the Personal Service Contract Review Board's satisfaction one (1) of the following:

1. Federal law has established limitations on the use of competitive bidding for the personal or professional contracts the agency is seeking to procure; or

2. The agency is required to hire professionals whose members are prohibited from bidding by the

rules of professional conduct promulgated by the regulating agency or agencies for that professional; or

3. The agency can establish that the use of competitive bidding will be counterproductive to the business of the agency.

(ii) If the Personal Service Contract Review Board determines that competitive bidding shall not be required for the particular personal or professional service the agency seeks to procure, then the Personal Service Contract Review Board shall direct the agency to establish a competitive procurement procedure for selecting the personal or professional service contract that ensures open, transparent procedures for making a selection. Such procedures shall include, but not be limited to, qualifications based selection or requests for qualifications. The Personal Service Contract Review Board shall also have the authority to audit the records of any agency to ensure it has used competitive procedures to contract for the personal or professional service;

(d) Prescribe certain circumstances whereby agency heads may enter into contracts for personal and professional services without receiving prior approval from the Personal Service Contract Review Board. The Personal Service Contract Review Board may establish a preapproved list of providers of various personal and professional services for set prices with which state agencies may contract without bidding or prior approval from the board * * *i

(e) To provide standards for the issuance of requests for proposals, the evaluation of proposals received, consideration of costs and quality of services proposed, contract negotiations, the administrative monitoring of contract performance by the agency and successful steps in terminating a contract;

(f) To present recommendations for governmental privatization and to evaluate privatization proposals submitted by any state agency;

(g) To authorize personal and professional service contracts to be effective for more than one (1) year provided a funding condition is included in any such multiple year contract, except the State Board of Education, which shall have the authority to enter into contractual agreements for student assessment for a period up to ten (10) years. The State Board of Education shall procure these services in accordance with the Personal Service Contract Review Board procurement regulations;

(h) To request the State Auditor to conduct a performance audit on any personal or professional service contract;

(i) Prepare an annual report to the Legislature concerning the issuance of personal service contracts during the previous year, collecting any necessary information from state agencies in making such report * * *;

(j) Develop and implement the following standards and procedures for the approval of any sole source contract for

personal and professional services regardless of the value of the procurement:

(i) For the purposes of this paragraph (j), the term "sole source" means only one (1) source is available that can provide the required personal or professional service.

(ii) An agency that has been issued a binding, valid court order mandating that a particular source or provider must be used for the required service must include a copy of the applicable court order in all future sole source contract reviews for the particular personal or professional service referenced in the court order.

(iii) Any agency alleging to have a sole source for any personal or professional service shall have published on the procurement portal website established by Sections 25-53-151 and 27-104-165, for at least fourteen (14) days, the terms of the proposed contract for those services. In addition, the publication shall include, but is not limited to, the following information:

1. The personal or professional service offered in the contract;

2. An explanation of why the personal or professional service is the only one that can meet the needs of the agency;

3. An explanation of why the source is the only person or entity that can provide the required personal or professional service;

4. An explanation of why the amount to be expended for the personal or professional service is reasonable; and

5. The efforts that the agency went through to obtain the best possible price for the personal or professional service.

(iv) If any person or entity objects and proposes that the personal or professional service published under subparagraph (iii) of this paragraph (j) is not a sole source service and can be provided by another person or entity, then the objecting person or entity shall notify the Personal Service Contract Review Board and the agency that published the proposed sole source contract with a detailed explanation of why the personal or professional service is not a sole source service.

(v) 1. If the agency determines after review that the personal or professional service in the proposed sole source contract can be provided by another person or entity, then the agency must withdraw the sole source contract publication from the procurement portal website and submit the procurement of the personal or professional service to an advertised competitive bid or selection process.

2. If the agency determines after review that there is only one (1) source for the required personal or professional service, then the agency may appeal to the Personal Service Contract Review Board. The agency has the burden of proving that the personal or professional service is only provided by one (1) source.

3. If the Personal Service Contract Review Board has any reasonable doubt as to whether the personal or professional service can only be provided by one (1) source, then the agency must submit the procurement of the personal or professional service to an advertised competitive bid or selection process. No action taken by the Personal Service Contract Review Board in this appeal process shall be valid unless approved by the chairman and two (2) other members of the Personal Service Contract Review Board present and voting.

(vi) The Personal Service Contract Review Board shall prepare and submit a quarterly report to the House of Representatives and Senate Committees on Accountability, Efficiency and Transparency that details the sole source contracts presented to the Personal Service Contract Review Board and the reasons that the Personal Service Contract Review Board approved or rejected each contract. Such quarterly reports shall also include the documentation and memoranda required in subsection (5) of this section. An agency that submitted a sole source contract shall be prepared to explain the sole source contract to each

committee by December 15 of each year upon request by the committee.

(4) Any contract submitted to the Personal Service Contract Review Board for review and approval shall be presumed to be approved if the Personal Service Contract Review Board does not object to the contract within thirty (30) days of the agency's submission of the contract. All submissions shall be made thirty (30) days before the monthly meeting of the Personal Service Contract Review Board or as prescribed by the Personal Service Contract Review Board. If the Personal Service Contract Review Board rejects any contract submitted for review or approval, the Personal Service Contract Review Board shall clearly set out the reasons for its action, including, but not limited to, the policy that the agency has violated in its submitted contract and any corrective actions that the agency may take to amend the contract to comply with the rules and regulations of the Personal Service Contract Review Board.

(5) All sole source contracts for personal and professional services awarded by state agencies, whether approved by an agency head or the Personal Service Contract Review Board, shall contain in the procurement file a written determination for the approval, using a request form furnished by the Personal Service Contract Review Board. The written determination shall document the basis for the determination, including any market analysis conducted in order to ensure that the service required was practicably

available from only one (1) source. A memorandum shall accompany the request form and address the following four (4) points:

(a) Explanation of why this service is the only service that can meet the needs of the purchasing agency;

(b) Explanation of why this vendor is the only practicably available source from which to obtain this service;

(c) Explanation of why the price is considered reasonable; and

(d) Description of the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

(6) The Personal Service Contract Review Board shall develop and promulgate rules and regulations to define the allowable legal relationship between contract employees and the contracting departments, agencies and institutions of state government under the jurisdiction of the State Personnel Board, in compliance with the applicable rules and regulations of the federal Internal Revenue Service (IRS) for federal employment tax purposes. Under these regulations, the usual common law rules are applicable to determine and require that such worker is an independent contractor and not an employee, requiring evidence of lawful behavioral control, lawful financial control and lawful relationship of the parties. Any state department, agency or institution shall only be authorized to contract for personnel services in compliance with said regulations.

(* * *7) No member of the Personal Service Contract Review Board shall use his official authority or influence to coerce, by threat of discharge from employment, or otherwise, the purchase of commodities or the contracting for personal or professional services under this section.

(8) Nothing in this section shall impair or limit the authority of the Board of Trustees of the Public Employees' Retirement System to enter into any personal or professional services contracts directly related to their constitutional obligation to manage the trust funds, including, but not limited to, actuarial, custodial banks, cash management, investment consultant, and investment management contracts.

SECTION 2. The Joint Committee on Performance Evaluation and Expenditure Review (PEER) shall evaluate on a biennial basis the procurement process utilized by all state agencies, including, but not limited to, the contract review, reporting and recordkeeping requirements in Section 25-9-120, and the bid requirements in Section 31-7-13. Upon completion of its evaluation, the PEER Committee shall submit a report to the Legislature with recommendations for improving the procurement process. The Department of Finance and Administration and the Personal Service Contract Review Board shall cooperate with the PEER Committee to carry out the provisions of this section.

SECTION 3. Section 25-1-100, Mississippi Code of 1972, is amended as follows:

25-1-100. (1) Personnel records and applications for employment in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, except those which may be released to the person who made the application or with the prior written consent of the person who made the application, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(2) Test questions and answers in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which are to be used in employment examinations, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(3) Letters of recommendation in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, respecting any application for employment, shall be exempt from the provisions of the Mississippi Public Records Act of 1983.

(4) Documents relating to contract authorization under Section 25-9-120 shall not be exempt from the provisions of Mississippi Public Records Act of 1983.

(5) Contracts for personal and professional services that are awarded or executed by any state agency, including, but not limited to, the Department of Information Technology Services and the Department of Transportation, shall not be exempt from the Mississippi Public Records Act of 1983.

SECTION 4. Section 25-61-9, Mississippi Code of 1972, is amended as follows:

25-61-9. (1) Records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to said third parties has been given, but such records shall be released within a reasonable period of time unless the said third parties shall have obtained a court order protecting such records as confidential.

(2) If any public record which is held to be exempt from disclosure pursuant to this chapter contains material which is not exempt pursuant to this chapter, the public body shall separate the exempt material and make the nonexempt material available for examination and/or copying as provided for in this chapter.

(3) Trade secrets and confidential commercial and financial information of a proprietary nature developed by a college or university under contract with a firm, business, partnership, association, corporation, individual or other like entity shall not be subject to inspection, examination, copying or reproduction under this chapter.

(4) Misappropriation of a trade secret shall be governed by the provisions of the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(5) A waste minimization plan and any updates developed by generators and facility operators under the Mississippi Comprehensive Multimedia Waste Minimization Act of 1990 shall be

retained at the facility and shall not be subject to inspection, examination, copying or reproduction under this chapter.

(6) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in Section 75-26-3, and data processing software produced by a public body which is sensitive must not be subject to inspection, copying or reproduction under this chapter. As used in this subsection, "sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

(a) Collect, process, store, and retrieve information which is exempt under this chapter.

(b) Control and direct access authorizations and security measures for automated systems.

(c) Collect, process, store, and retrieve information, disclosure of which would require a significant intrusion into the business of the public body.

(7) For all procurement contracts awarded by state agencies, the provisions of the contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information under this section, and shall be available for examination, copying or reproduction as provided for in this chapter.

SECTION 5. Section 27-104-155, Mississippi Code of 1972, is amended as follows:

27-104-155. (1) The Department of Finance and Administration shall develop and operate a searchable website that includes information on expenditures of state funds from all funding sources. The website shall have a unique and simplified website address, and the department shall require each agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the searchable website required under this section.

(a) With regard to disbursement of funds, the website shall include, but not be limited to:

(i) The name and principal location of the entity or recipients of the funds, excluding release of information relating to an individual's place of residence, the identity of recipients of state or federal assistance payments, and any other information deemed confidential by state or federal law relating to privacy rights;

(ii) The amount of state funds expended;

(iii) A descriptive purpose of the funding action or expenditure;

(iv) The funding source of the expenditure;

(v) The budget program or activity of the expenditure;

(vi) The specific source of authority and descriptive purpose of the expenditure, to include a link to the funding authorization document(s) in a searchable PDF form;

(vii) The specific source of authority for the expenditure including, but not limited to, a grant, subgrant, contract, or the general discretion of the agency director, provided that if the authority is a grant, subgrant or contract, the website entry shall include a grant, subgrant or contract number or similar information that clearly identifies the specific source of authority. The information required under this paragraph includes data relative to tax exemptions and credits;

(viii) The expending agency;

(ix) The type of transaction;

(x) The expected performance outcomes achieved for the funding action or expenditure;

(xi) Links to any state audit or report relating to the entity or recipient of funds or the budget program or activity or agency; and

(xii) Any other information deemed relevant by the Department of Finance and Administration.

(b) When the expenditure of state funds involves the expenditure of bond proceeds, the searchable website must include a clear, detailed description of the purpose of the bonds, a current status report on the project or projects being financed by

the bonds, and a current status report on the payment of the principal and interest on the bonds.

(c) The searchable website must include access to an electronic summary of each grant, including amendments; subgrant, including amendments; contract, including amendments; and payment voucher that includes, wherever possible, a hyperlink to the actual document in a searchable PDF format, subject to the restrictions in paragraph (d) of this section. The Department of Finance and Administration may cooperate with other agencies to accomplish the requirements of this paragraph.

(d) Nothing in Sections 27-104-151 through 27-104-159 shall permit or require the disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information that is required to be confidential by state or federal law.

(e) The information available from the searchable website must be updated no later than fourteen (14) days after the receipt of data from an agency, and the Department of Finance and Administration shall require each agency to provide to the department access to all data that is required to be accessible from the searchable website within fourteen (14) days of each expenditure, grant award, including amendments; subgrant, including amendments; or contract, including amendments; executed by the agency.

(f) The searchable website must include all information required by this section for all transactions that are initiated in fiscal year 2015 or later. In addition, all information that is included on the searchable website from the date of the inception of the website until July 1, 2014, must be maintained on the website according to the requirements of this section before July 1, 2014, and remain accessible for ten (10) years from the date it was originally made available. All data on the searchable website must remain accessible to the public for a minimum of ten (10) years.

(g) For the purposes of this subsection (1), the term "contract" includes, but is not limited to, personal and professional services contracts.

(2) The Board of Trustees of State Institutions of Higher Learning shall create the IHL Accountability and Transparency website to include its executive office and the institutions of higher learning no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as

well as the IHL website and the main page of the website of each institution of higher learning;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within these enterprise resource planning (ERP) computer systems; and

(f) Design the reporting format using the existing capabilities of these ERP computer systems.

(3) The Mississippi Community College Board shall create the Community and Junior Colleges Accountability and Transparency website to include its executive office and the community and junior colleges no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the Mississippi Community College Board website and the main page of the website of each community and junior college;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within the computer system of each community and junior college; and

(f) Design the reporting format using the existing capabilities of the computer system of each community and junior college.

SECTION 6. Section 27-104-161, Mississippi Code of 1972, is amended as follows:

27-104-161. No provision of Sections 27-104-151 through 27-104-159 shall be construed as conferring upon the Department of Finance and Administration any authority to review, approve or deny any expenditures or contracts entered into by the Legislature or any of its committees, or to impose any requirement on the Legislature or any of its committees to take any action other than to disclose expenditures and contracts entered into on or after July 1, 2011. For the purposes of this section, the term "contract" includes, but is not limited to, personal and professional services contracts.

SECTION 7. Section 5-8-3, Mississippi Code of 1972, is amended as follows:

5-8-3. The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) (i) "Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;

2. A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

3. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;

4. A stock, bond, note or other investment interest in an entity;

5. A receipt given for the payment of money or other property;

6. A right in action;

7. A gift, tangible good, chattel or an interest in a gift, tangible good or chattel;

8. A loan or forgiveness of indebtedness;

9. A work of art, antique or collectible;

10. An automobile or other means of personal transportation;

11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;

12. An honorarium or compensation for services;

13. A rebate or discount in the price of anything of value, unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official or public employee, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;

14. A promise or offer of employment;

15. Any other thing of value that is pecuniary or compensatory in value to a person, except as otherwise provided in subparagraph (ii) of this paragraph; or

16. A payment that directly benefits an executive, legislative or public official or public employee or a member of that person's immediate family.

(ii) "Anything of value" does not mean:

1. Informational material such as books, reports, pamphlets, calendars or periodicals informing an executive, legislative or public official or public employee of her or his official duties;

2. A certificate, plaque or other commemorative item which has little pecuniary value;

3. Food and beverages for immediate consumption provided by a lobbyist up to a value of Ten Dollars (\$10.00) in the aggregate during any calendar year;

4. Campaign contributions reported in accordance with Section 23-15-801 et seq., Mississippi Code of 1972.

(b) "Commission" means the Mississippi Ethics Commission, when used in the context of Section 5-8-19.

(c) "Compensation" means:

(i) An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, including reimbursement of travel, food or lodging costs; or

(ii) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, including reimbursement of travel, food or lodging costs, for services rendered or to be rendered.

(d) "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a state or local governmental entity of a rule, regulation, order,

decision, determination or other quasi-legislative action or proceeding.

(e) "Executive agency" means:

(i) An agency, board, commission, governing authority or other body in the executive branch of state or local government; or

(ii) An independent body of state or local government that is not a part of the legislative or judicial branch, but which shall include county boards of supervisors.

(f) "Executive official" means:

(i) A member or employee of a state agency, board, commission, governing authority or other body in the executive branch of state or local government; or

(ii) A public official or public employee, or any employee of such person, of state or local government who takes an executive action.

(g) "Expenditure" means:

(i) A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;

(ii) A payment to a lobbyist for salary, fee, commission, compensation for expenses, or other purpose by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(iii) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(iv) A payment that directly benefits an executive, legislative or public official or a member of the official's immediate family;

(v) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official made at the direction of the employee's employer;

(vi) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official;
or

(vii) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities.

(h) "Gift" means anything of value to the extent that consideration of equal or greater value is not received, including a rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official.

(i) "Legislative action" means:

(i) Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment or other matter by the Mississippi State Legislature or a member or employee of the Legislature acting or purporting to act in an official capacity;

(ii) Action by the Governor in approving or vetoing a bill or other action of the Legislature;

(iii) Action by the Legislature in:

1. Overriding or sustaining a veto by the Governor; or

2. Considering, confirming or rejecting an executive appointment of the Governor.

(j) "Legislative official" means:

(i) A member, member-elect or presiding officer of the Legislature;

(ii) A member of a commission or other entity established by and responsible to either or both houses of the Legislature;

(iii) A staff member, officer or employee to a member or member-elect of the Legislature, to a member of a commission or other entity established by and responsible to either or both houses of the Legislature, or to the Legislature or any house, committee or office thereof.

(k) "Lobbying" means:

(i) Influencing or attempting to influence legislative or executive action through oral or written communication; or

(ii) Solicitation of others to influence legislative or executive action; or

(iii) Paying or promising to pay anything of value directly or indirectly related to legislative or executive action.

(l) "Lobbyist" means:

(i) An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

(ii) An individual who represents a legislative or public official or public employee, or who represents a person, organization, association or other group, for the purpose of lobbying; * * *

(iii) A sole proprietor, owner, part owner or shareholder in a business who has a pecuniary interest in legislative or executive action, who engages in lobbying activities * * *; or

(iv) Any individual described in subparagraphs (i), (ii) or (iii) of this paragraph (l) who is employed by or has contracted with any agency, legislative or public official or public employee, or any other public entity for the purpose of

providing any type of consulting or other similar service but also engages in any type of lobbying activities. Such individual shall not qualify for any exemption under Section 5-8-7.

(m) "Lobbyist's client" means the person in whose behalf the lobbyist influences or attempts to influence legislative or executive action.

(n) "Local" means all entities of government at the county, county-district, multicounty district, municipal or school district level.

(o) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint-stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization or group of persons acting in concert.

(p) "Public employee" means an individual appointed to a position, including a position created by statute, whether compensated or not, in state or local government and includes any employee of the public employee. The term includes a member of the board of trustees, chancellor, vice chancellor or the equivalent thereof in the state university system or the state community and junior college system, and a president of a state college or university.

(q) "Public official" means an individual elected to a state or local office, or an individual who is appointed to fill a vacancy in the office.

(r) "Value" means the retail cost or fair market worth of an item or items, whichever is greater.

SECTION 8. Section 5-8-7, Mississippi Code of 1972, is amended as follows:

5-8-7. Notwithstanding any other provisions of this chapter, except as otherwise provided in Section 5-8-3(1)(iv), the following person shall not be included within the definition of "lobbyist" or "lobbyist's client" under this chapter, and accordingly the registration and reporting provisions, including the payment of related fees, of this chapter do not apply to:

- (a) A legislative or public official acting in an official capacity.
- (b) An individual who:
 - (i) Represents or purports to represent only the individual;
 - (ii) Receives no compensation or anything of value for lobbying; and
 - (iii) Has no pecuniary interest in the legislative or executive action.
- (c) An individual lobbying in his or her own interest, his or her own business interest, who pays, or promises to pay, offers to pay or causes to be paid to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than Two Hundred Dollars (\$200.00) in any calendar year.

(d) An individual lobbying on behalf of his or her employer's business interest where such lobbying is not a primary or regular function of his employment position if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on the employer's behalf to public officials, legislative officials, or public employees any thing or things of value aggregating in value to less than Two Hundred Dollars (\$200.00) in any calendar year.

(e) An individual lobbying on behalf of an association of which he or she is a member, where such lobbying is not a primary or regular function of his or her position in the association, if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on the association's behalf to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than Two Hundred Dollars (\$200.00) in any calendar year.

(f) An individual who is a shareholder, owner or part owner of a business who lobbies on behalf of such business, where such individual is not an employee of the business, if such individual pays, promises to pay, offers to pay, or causes to be paid individually or on behalf of the business to public officials, legislative officials or public employees any thing or things of value aggregating in value to less than Two Hundred Dollars (\$200.00) in any calendar year.

(g) An individual who:

(i) Limits lobbying solely to formal testimony before a public meeting of a legislative body or an executive agency, or a committee, division or department thereof; and

(ii) Registers the appearance in the records of the public body, if such records are kept.

(h) An individual who is a licensed attorney representing a client by:

(i) Drafting bills, preparing arguments thereon, and advising the client or rendering opinions as to the construction and effect of proposed or pending legislation, where such services are usual and customary professional legal services which are not otherwise connected with legislative action; or

(ii) Providing information, on behalf of the client, to an executive or public official, a public employee, or an agency, board, commission, governing authority or other body of state or local government where such services are usual and customary professional legal services including or related to a particular nonlegislative matter, case or controversy.

(i) News media and employees of the news media whose activity is limited solely to the publication or broadcast of news, editorial comments, or paid advertisements that attempt to influence legislative or executive action. For the purposes of this section, "news media" shall be construed to be bona fide radio and television stations, newspapers, journals or magazines, or bona fide news bureaus or associations which in turn furnish

information solely to bona fide radio or television stations, newspapers, journals or magazines.

(j) An individual who engages in lobbying activities exclusively on behalf of a religious organization which qualifies as a tax-exempt organization under the Internal Revenue Code.

(k) An individual who is a nonattorney professional and who receives professional fees and expenses to represent clients on executive agency matters, except that if anything of value shall be paid or promised to be paid directly or indirectly on behalf of a client for the personal use or benefit of an executive or public official or public employee, then expenditures and actions of the individual are reportable under this chapter, and the individual must register as a lobbyist.

SECTION 9. Section 5-8-1, Mississippi Code of 1972, is brought forward as follows:

5-8-1. This chapter shall be cited as the "Lobbying Law Reform Act of 1994."

SECTION 10. Section 5-8-5, Mississippi Code of 1972, is brought forward as follows:

5-8-5. (1) Except as otherwise provided in Section 5-8-7 of this chapter and in addition to reports required by Sections 5-8-9 and 5-8-11 of this chapter, every lobbyist and every lobbyist's client shall file a registration statement with the Secretary of State within five (5) calendar days after becoming a lobbyist, becoming a lobbyist's client or beginning to lobby for a new

client. The filing of every registration statement shall be accompanied by the payment of a registration fee of Twenty-five Dollars (\$25.00) to the Secretary of State. The lobbyist shall file the registration statement and pay the fees to the Secretary of State for each lobbyist's client whom the lobbyist represents.

(2) The registration statement shall include the following:

(a) The name, address, occupation and telephone number of the lobbyist;

(b) The name, address, telephone number and principal place of business of the lobbyist's client;

(c) The kind of business of the lobbyist's client;

(d) The full name of the person or persons who control the lobbyist's client, the partners, if any, and officers of the lobbyist's client;

(e) The full name, address and telephone number of each lobbyist employed by or representing the lobbyist's client; and

(f) A statement or statements by the lobbyist and lobbyist's client indicating the specific nature of the issues being advocated for or against on behalf of the lobbyist's client, with sufficient detail so that the precise nature of the lobbyist's advocacy is evident from the statement itself.

(3) Registration shall be valid for one (1) calendar year, commencing January 1 and ending December 31 of each year. If the lobbyist or lobbyist's client shall register after January 1, the

registration shall be effective upon actual receipt by the Secretary of State and shall cease on December 31 of each year.

(4) A lobbyist or lobbyist's client may terminate his registration by filing an expenditure report required under this chapter. Such report shall include information through the last day of lobbying activity. The termination report must indicate that the lobbyist intends to use the report as the final accounting of lobbying activity.

(5) The Secretary of State shall prescribe and make available to every lobbyist and lobbyist's client appropriate forms for filing registration statements as required by Sections 5-8-1 through 5-8-19 of this chapter.

SECTION 11. Section 5-8-9, Mississippi Code of 1972, is brought forward as follows:

5-8-9. (1) Except as otherwise provided in Section 5-8-7 of this chapter and in subsection (7) of this section, no later than January 30 of each year, a lobbyist's client shall file a report of expenditures with the Secretary of State. The report must contain information on all expenditures paid by the lobbyist's client during the preceding twelve (12) calendar months.

(2) The report must list expenditures for the purpose of lobbying according to the following categories:

(a) A payment to a lobbyist for salary, fee, compensation for expenses, or other purpose by a person employing,

retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(b) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;

(c) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(d) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(e) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(f) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities; or

(g) A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose.

(3) For each executive, legislative or public official or public employee who was paid, given or promised to be paid anything of value in full or in part from the lobbyist's client, the report must also include:

(a) The name of the executive, legislative or public official or public employee who was paid, given or promised anything of value;

(b) A description and the monetary value of anything of value paid, given or promised to such official or employee, with sufficient detail so that the nature of the transfer is clear;

(c) The place and date anything of value was paid, given or promised; and

(d) The name of the person who paid, gave or promised to pay anything of value.

(4) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the Secretary of State.

(5) The report due January 30 shall include a cumulative total for the calendar year for all reportable categories.

(6) A lobbyist's client shall maintain contemporaneous records of all expenditures reportable under Sections 5-8-1 through 5-8-19 of this chapter and shall retain such records for a period of two (2) years.

(7) If the State of Mississippi is a lobbyist's client, the State of Mississippi shall be exempt from filing an annual report.

(8) (a) If the entire Legislature and all statewide elected officials are individually invited to a single function, which is sponsored by a lobbyist's client, or a lobbyist on behalf of such client, and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and beverages offered for immediate consumption required in subsection (3) of this section, so long as food and beverages provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(b) The report of the expenditure connected with a single function as described in paragraph (a) of this subsection shall be made by the lobbyist's client and shall include the following:

(i) The total amount of money expended for the function;

(ii) The estimated total number of persons in attendance at the function;

(iii) The estimated total number of public officials in attendance at the function.

SECTION 12. Section 5-8-11, Mississippi Code of 1972, is brought forward as follows:

5-8-11. (1) Except as otherwise provided in Section 5-8-7 of this chapter, a lobbyist shall file with the Secretary of State a separate report for each lobbyist's client. The report shall specifically list all payments received from the lobbyist's client and all expenditures that were initiated or paid by the lobbyist on behalf of each lobbyist's client during each reporting period required herein.

(2) The report must list expenditures for the purpose of lobbying according to the following categories:

(a) A payment to the lobbyist for salary, fee, compensation for expenses, or other purpose by the person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(b) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;

(c) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(d) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(e) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(f) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities;

(g) A purchase, payment, distribution, loan, or forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose.

(3) For each executive, legislative or public official or public employee who was paid, given or promised to be paid anything of value in full or in part from the lobbyist, the report must also include:

(a) The name of the executive, legislative or public official or employee who was paid, given or promised anything of value;

(b) A description and the monetary value of anything of value paid, given or promised to such official or employee, with sufficient detail so that the nature of the transfer is clear;

(c) The place and date anything of value was paid, given or promised; and

(d) The name of the person who paid, gave or promised to pay anything of value.

(4) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the Secretary of State.

(5) A report of expenditures must be filed with the Secretary of State no later than January 30 of each year. The report shall contain information on all expenditures paid or initiated by the lobbyist on behalf of each lobbyist's client during the preceding twelve (12) calendar months, and it shall include a cumulative total for the calendar year of all reportable categories.

(6) In addition to the annual report required above, a lobbyist shall file two (2) reports during regular sessions of the Legislature with the Secretary of State on February 25 and within ten (10) days after the Legislature's adjournment sine die. Such additional report shall include the name of the executive, legislative, or public official or public employee who receives anything of value from the lobbyist or from the lobbyist on behalf of the lobbyist's client, the name of the person receiving the payment, the name of the person making the payment, the amount of the payment and the date of the payment. However, any lobbyist who lobbies local government exclusively shall be exempt from the requirement of filing the reports required by this paragraph.

(7) (a) If the entire Legislature and all statewide elected officials are individually invited to a single function which is

sponsored by a lobbyist on behalf of one or more lobbyist's clients and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and beverages offered for immediate consumption as required in subsection (3) of this section, so long as food and beverages provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(b) The report of the expenditure connected with a single function as described in paragraph (a) of this subsection shall be made by the lobbyist and shall include the following:

(i) The total amount of money expended for the function, reception or meal;

(ii) The total number of persons in attendance at the function, reception or meal;

(iii) The total number of legislators in attendance at the function, reception or meal.

(8) A lobbyist shall maintain contemporaneous records of all expenditures reportable under Sections 5-8-1 through 5-8-19 of this chapter, and shall retain such records for a period of two (2) years.

SECTION 13. Section 5-8-13, Mississippi Code of 1972, is brought forward as follows:

5-8-13. (1) A lobbyist shall not contract to receive or accept compensation dependent upon the success or failure of a legislative or executive action.

(2) A lobbyist or lobbyist's client shall not knowingly or willfully make or cause to be made a false statement or misrepresentation of facts to an executive, legislative or public official or public employee, or to the public in general with the intent to affect the outcome of a legislative or executive action.

(3) A lobbyist or lobbyist's client shall not cause a legislative or executive action for the purpose of obtaining employment to lobby in support of or in opposition to the legislative or executive action.

(4) An executive, legislative or public official or public employee shall not be a lobbyist, except that he may act as a lobbyist when acting in his official capacity.

(5) A lobbyist must disclose anything of value given in whole or in part to any executive, legislative or public official or public employee.

SECTION 14. Section 5-8-15, Mississippi Code of 1972, is brought forward as follows:

5-8-15. (1) The district attorney of the circuit court of the district wherein an alleged violation occurred shall investigate violations of this chapter.

(2) In addition to a district attorney's authority as set forth in subsection (1) of this section, the Attorney General

shall investigate alleged violations of this chapter and use all existing powers granted that office in conducting such investigations.

SECTION 15. Section 5-8-17, Mississippi Code of 1972, is brought forward as follows:

5-8-17. (1) In addition to any other penalty permitted by law, the Secretary of State shall require any person who fails to file a report as required under Sections 5-8-1 through 5-8-19 of this chapter, or who shall file a report which fails to comply with the material particulars of Sections 5-8-1 through 5-8-19 of this chapter or any rules, regulations or procedures implemented pursuant to Sections 5-8-1 through 5-8-19 of this chapter, to be assessed a civil penalty as follows:

(a) Within five (5) calendar days after any deadline for filing a report pursuant to Sections 5-8-1 through 5-8-19 of this chapter, the Secretary of State shall compile a list of those lobbyists and lobbyists' clients who have failed to file a required report. The Secretary of State shall provide each lobbyist or lobbyist's client who has failed to file such a report notice of such failure by certified mail.

(b) Beginning with the tenth calendar day after which any report shall be due, the Secretary of State shall assess the delinquent lobbyist and delinquent lobbyist's client a civil penalty of Fifty Dollars (\$50.00) per day and part of any day until a valid report is delivered to the Secretary of State, up to

a maximum of ten (10) days. However, in the discretion of the Secretary of State, the assessing of such fine may be waived if the Secretary of State shall determine that unforeseeable mitigating circumstances, such as the health of the lobbyist, shall interfere with timely filing of a required report.

(c) Filing of the required report and payment of the fine within ten (10) calendar days of notice by the Secretary of State that a required statement has not been filed constitutes compliance with Sections 5-8-1 through 5-8-19 of this chapter.

(d) Payment of the fine without filing the required report does not in any way excuse or exempt any person required to file from the filing requirements of Sections 5-8-1 through 5-8-19 of this chapter.

(2) (a) Upon the sworn application of a lobbyist or lobbyist's client against whom a civil penalty has been assessed pursuant to subsection (1), the Secretary of State shall forward the application to the Mississippi Ethics Commission. The commission shall fix a time and place for a hearing and shall cause a written notice specifying the civil penalties that have been assessed against the lobbyist or lobbyist's client and notice of the time and place of the hearing to be served upon the lobbyist or lobbyist's client at least twenty (20) calendar days prior to the hearing date. Such notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last known business address of the lobbyist or lobbyist's client.

(b) The commission is authorized to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the commission shall extend to all parts of the state and shall be served by any person designated by the commission for such service.

(c) The lobbyist or lobbyist's client shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses and to have subpoenas issued by the commission.

(d) A hearing officer shall be appointed by the commission to conduct the hearing. At the hearing, the hearing officer shall administer oaths as may be necessary for the proper conduct of the hearing. All hearings shall be conducted by the commission, who shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of the proceedings, but the determination shall be based upon sufficient evidence to sustain it.

(e) Where, in any proceeding before the commission, any witness fails or refuses to attend upon a subpoena issued by the commission, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for

the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(f) Within fifteen (15) calendar days after conclusion of the hearing, the commission shall reduce its decision to writing and forward an attested true copy thereof to the last known business address of the lobbyist or lobbyist's client by way of United States first-class, certified mail, postage prepaid.

(3) (a) The right to appeal from the decision of the commission in an administrative hearing concerning the assessment of civil penalties authorized pursuant to this section is hereby granted. Such appeal shall be to the Circuit Court of Hinds County and shall include a verbatim transcript of the testimony at the hearing. The appeal shall be taken within thirty (30) calendar days after notice of the decision of the commission following an administrative hearing. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of the preparation of the record of the proceedings by the commission, and the filing of a bond in the sum of Two Hundred Dollars (\$200.00), conditioned that if the decision of the commission be affirmed by the court, the lobbyist or lobbyist's client will pay the costs of the appeal and the action in court. If the decision is reversed by the court, the Secretary of State will pay the costs of the appeal and the action in court.

(b) If there is an appeal, such appeal shall act as a supersedeas. The court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may be tried in vacation, in the court's discretion. The scope of review of the court shall be limited to a review of the record made before the commission to determine if the action of the commission is unlawful for the reason that it was (i) not supported by substantial evidence, (ii) arbitrary or capricious, (iii) beyond the power of the commission to make, or (iv) in violation of some statutory or constitutional right of the appellant. The decision of the court may be appealed to the Supreme Court in the manner provided by law.

(4) If, after forty-five (45) calendar days of the date of the administrative hearing procedure set forth in subsection (2), the lobbyist or lobbyist's client shall not file a valid report as required by law, the commission shall notify the Attorney General of the delinquency. The Attorney General shall investigate said offense in accordance with the provisions of this chapter.

SECTION 16. Section 5-8-19, Mississippi Code of 1972, is brought forward as follows:

5-8-19. The Secretary of State shall:

(a) Provide forms for registration and for statements required by Sections 5-8-1 through 5-8-19 of this chapter to all persons required to file.

(b) Issue a certificate of registration to a lobbyist registered under the provisions of Sections 5-8-1 through 5-8-19 of this chapter.

(c) Make all statements and reports filed available for public inspection and copying, at a reasonable cost, during regular office hours.

(d) Publish an annual report summarizing the financial activities of lobbyists and lobbyists' clients, and such annual report shall not include amounts reported pursuant to Sections 5-8-9(8) and 5-8-11(7) for single functions in the calculation of the cumulative total amount of money expended for lobbying purposes.

SECTION 17. Section 5-8-21, Mississippi Code of 1972, is brought forward as follows:

5-8-21. Any person who, with intent, violates any of the provisions of this chapter whether acting either individually or as an officer, agent, employee, or counsel of a person, firm, corporation or association, or any person whether acting individually or as the officer, employee, agent or counsel of a firm, corporation or association, who, with intent, causes or participates, either directly or indirectly, in any violation of the provisions of this chapter shall upon conviction for the first offense be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail not more than six (6) months or both and upon conviction for a second or any subsequent offense be

fined not more than Five Thousand Dollars (\$5,000.00) or imprisoned in the Penitentiary not more than three (3) years or both. Any association or corporation which, with intent, violates, or causes or participates, either directly or indirectly, in any violation of any of the provisions of this chapter shall, for each offense, upon conviction, be fined not more than Five Thousand Dollars (\$5,000.00). The prosecution or conviction of one or more of the officers or employees of such corporation or association shall not be a bar to the prosecution and conviction of the corporation or association for such offense.

SECTION 18. Section 5-8-23, Mississippi Code of 1972, is brought forward as follows:

5-8-23. If any section, paragraph, sentence, clause, phrase or any part of this chapter passed hereafter is declared to be unconstitutional or void, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

SECTION 19. Section 25-53-151, Mississippi Code of 1972, is brought forward as follows:

25-53-151. (1) There is established in the State Treasury the "Electronic Government Services Fund," into which shall be deposited specific funds appropriated by the Legislature for developing and providing electronic government services within the State of Mississippi. Any funds in the Electronic Government

Services Fund at the end of a fiscal year shall not lapse into the State General Fund, but shall be available for expenditure in the subsequent fiscal year. The funds in the Electronic Government Fund shall be available for expenditure pursuant to specific appropriation by the Legislature beginning in fiscal year 2002, to the Mississippi Department of Information Technology Services.

(2) There is hereby established an Electronic Government Oversight Committee to oversee the implementation of E-Government and related technology initiatives. Duties of this committee would include: (a) prioritize and make recommendations for all electronic government services, in order to cut across state and local governmental organizational structures; (b) address policy issues such as privacy, security, transaction fees and accessibility; (c) review ongoing fiscal and operational management and support of portal; (d) provide a mechanism for gathering input from citizens, businesses and government entities; (e) encourage self-service models for citizens through state websites and other electronic services; and (f) promote economic development and efficient delivery of government services by encouraging governmental and private sector entities to conduct their business and transactions using electronic media. The Electronic Government Oversight Committee shall be composed of the following: (a) the Executive Director of the Mississippi Department of Information Technology Services, or his designee;

(b) the State Auditor, or his designee; (c) the State Treasurer, or his designee; (d) the Secretary of State, or his designee; (e) the Executive Director of the Department of Finance and Administration, or his designee; (f) the Commissioner of Public Safety, or his designee; (g) the Commissioner of Revenue, or his designee. The committee shall annually elect one (1) member to serve as chairman and one (1) member to serve as vice chairman, who shall act as chairman in the absence of the chairman. The committee shall meet monthly or upon the call of the chairman, and shall make necessary reports and recommendations to the Legislature and the appropriate agencies of state government. All agencies of state government shall cooperate with the committee in providing requested information, shall work closely with and provide information to the committee and shall report to the committee at its request. The Mississippi Department of Information Technology Services shall provide administrative support for the committee. Nonlegislative members of the committee shall serve without compensation.

(3) The Electronic Government Oversight Committee shall advise and provide direction to the Department of Finance and Administration to develop a procurement portal that will enable potential vendors of goods and services to access relevant and necessary information related to the sale of the following types of goods and services to the State of Mississippi and its agencies:

- (a) Commodities, as defined by Section 31-7-1;
- (b) Contract personnel, as defined by Sections 25-9-107 and 25-9-120; and
- (c) Computer equipment and services, as defined by Section 25-53-3.

(4) The procurement portal provided for in subsection (3) must provide potential vendors with the following:

- (a) A searchable database of business procurement opportunities with the state which includes a breakdown by product or service and by the organization seeking the product or service;

- (b) Listings of the published date and closing date for each business procurement opportunity;

- (c) A "Frequently Asked Questions" section regarding doing business with the respective agencies;

- (d) A breakdown of "Frequently Asked Questions" regarding the selection process with the respective agencies;

- (e) An open-air forum for questions and answers relating to the procurement process, in general, as well as specifically relating to a single contract; and

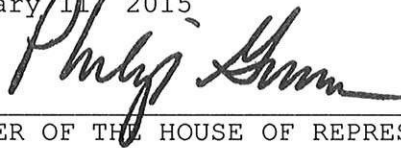
- (f) Links to individual agency websites and contacts to enable potential vendors to obtain more specific information, if necessary.

(5) The procurement portal must be linked to the Transparency Mississippi website established in accordance with Sections 27-104-151 through 27-104-163. The Mississippi

Department of Information Technology Services shall develop and maintain a link to the procurement portal from the state website.

SECTION 20. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 11, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 23, 2015



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

3/31/15
3:25pm